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THOMPSON COBURN, LLP  
ONE US BANK PLAZA  
SUITE 3500  
ST LOUIS MO 63101

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**OFFICE OF PETITIONS**

In re Application of :  
Eugene David Rodgers :  
Application No. 09/964,118 : ON PETITION  
Filed: 25 September, 2001 :  
Atty Docket No. 9080/23611 :

This is a decision on the renewed petition under 37 CFR 1.137(b),<sup>1</sup> filed on 8 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 20 March, 2004, for failure to timely file a reply to the final Office action mailed on 19 December, 2003, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

9 August, 2004. The petition filed on 12 November, 2004, was dismissed on 8 December, 2004.

On 8 February, 2005, the present renewed petition was filed, accompanied by an amendment. The amendment will be treated as the submission required under 37 CFR 1.114 to accompany the Request for Continued Examination (RCE) filed on 12 November, 2004.

The application will be referred to Technology Center Art Unit 1774 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions